

**REMARKS**

Claims 1-5, all the claims pending in the application, stand rejected. Applicant has made minor changes to the claims for clarity, but not for patentability, as Applicant submits that the claimed subject matter is clearly distinguishable over the prior art.

***Drawings***

The Examiner objects to the drawings under 37 C.F.R. § 1.83(a) because the Examiner asserts that there is no “data provision device” shown in the figure. Applicant traverses this objection by pointing the Examiner to the description at page 9, lines 4-7 where it expressly defines the “data provision device” as comprising the data distribution server 18 and charge management database 20, both of which are illustrated in Figure 1. However, Applicant also has amended the Figure consistent with this definition by placing a dotted line around server 18 and data base 20, and assigning this element a reference number 19. An appropriate amendment also has been made to the specification at page 9 to identify the reference number.

The Examiner further objects to the drawings because he asserts that descriptive textual labels are needed for elements 12, 16 and 20 of Fig. 1. However, these are conventional symbols used in many issued patents where a short cylinder represents a database, an ellipse with an X represents a network and a rectangular block with an antenna represents some mobile transmission device such as a telephone or PDA. Accordingly, Applicant traverses this requirement to the extent that the submitted figures do not remedy the Examiner’s objection.

Finally, the Examiner objects to the drawings because of a spelling error in Fig. 7. Applicant has amended the Figure in order to correct all spelling.

***Claim Objection***

The Examiner objects to the claims because the claim presentation is asserted to be single spaced, making the claims too difficult to read for the Examiner. The Examiner suggests having the claims presented with lines 1.5 or double spaced. In fact, the claims are presented with spacing at 1.5. However, in Applicant’s amendment, the Examiner is provided with a listing of all claims in double spaced format, thereby overcoming the objection.

***Claim Rejections - 35 U.S.C. § 112***

Claims 1-5 are rejected under 35 U.S.C. § 112, second paragraph as being indefinite. The Examiner points to language in claims 1 and 5 and asserts that certain phrases are either vague or lacking antecedent basis. Applicant has amended the claims accordingly.

In short, since the Examiner appears to have difficulty separating phrases within each of the cited limitations of claim 1, Applicant has added numerals (1) and (2) for further clarify. With regard to claim 5, Applicant has simply deleted the article “the” in order to avoid the antecedent basis problem.

Claims 1-5 are rejected under 35 U.S.C. § 112, second paragraph as being incomplete for omitting essential structural cooperative relationships and elements. The Examiner cites MPEP §2172.01 in support of this rejection. The Examiner notes that a preamble of claim 1 is directed to a “data provision device” and that this element is defined as the data distribution server 18 and charge management database 20. The Examiner appears to assert that the body of the independent claims do not include these two structures. Applicant traverses this rejection for the following reasons.

First, as acknowledged by the Examiner, the specification expressly defines the “data provision device” as comprising storage 20 and server 18, which itself comprises multiple means, now indicated by the number 19. Applicant notes for the Examiner that the claimed data provision device does include a table storage means comparable to database 20. Applicant also notes that the server 18 corresponds to each of the other limitations in claim 1. As would be understood by one skilled in the art, data distribution server comprises a processor, memory and programming stored in the memory which, with respect to the first embodiment, operates in accordance with the flowchart of Fig. 3. Thus, subroutines that perform each of the illustrated steps, coupled with the processor in the data distribution server would be the structure corresponding to each of the recited means limitations of the claim. A similar correspondence can be seen with regard to the second and third embodiments, as illustrated in Figs. 7 and 9 respectively.

The recited functions of each of the claim limitations clearly relate to at least one other claim limitation of the claims, at least by virtue of the input and/or output stated for each limitation. For example, a “data provision request” is received by the “data provision request reception means” and the “determination means” is responsive to the “data provision request” in a manner that clearly establishes a relationship between those two structures. Similar relationships can be observed with respect to the “user identifying information.”

Thus, Applicant respectfully submits that nothing is missing from the claims, particularly essential cooperative relationships. One of ordinary skill would understand the manner in which each of the structural elements relates to at least one other of the elements.

#### ***Claim Rejections - 35 U.S.C. § 102***

Claims 1-5 are rejected under 35 U.S.C. § 102(e) as being anticipated by Feibelman et al (6,499,017). This rejection is traversed for at least the following reasons.

#### **The Invention**

The invention is focused on data distribution services, including music, game and image distribution services for personal computers and mobile phones. The data items can be immediately provided from a central resource (server and data base) in response to a user's request from a user device, and a data item distribution service charge is added to a commercial account that corresponds to the user device. However, a goal is to avoid double charging users for downloading data items, which already were the subject of a completed commercial transaction process, a subsequent number of times. The programming of the server, for example, as represented by the flow charts in Figs. 3, 7 and 9, determines whether a transaction process is completed.

In accordance with the data distribution system as illustrated in Fig. 1 of the present application, a mobile unit 12, having a display, speaker and input keys, is remotely coupled by a base station 14 to a network 16. The network 16 provides a communication link to a data distribution server 18 that is coupled to a database 20, which together form a data provision device. As explained at pages 8-9 of the application, the user of the mobile unit 12 transmits a URL input to the network 16 and acquires data corresponding to the URL from the data

distribution device 18. The URL is accompanied by user identifying information that uniquely identifies the mobile unit 12. The data distribution server 18 interprets the URL and transmits data corresponding to the URL back to the mobile unit 12 through the network 16 and the base station 14. The received data is processed by the mobile unit 12 (played as music, displayed, etc.) and subject to selection by a user at the mobile unit 12.

In order to ensure that a user at a mobile unit can repetitively request the data item without being double charged, the invention stores in the data base 20 appropriate user and commercial charging information (Fig. 2). Accordance with a first embodiment of operation as illustrated in Fig. 3, in response to the URL-based request, the server 18 receives the transmitted data provision request for a data item (S102) and acquires the user identifying information that was added to the URL (S103). The server 18 reads out the charge data associated with the requested user information from a data table stored in the database 20 (S104). Then, the server 18 makes a determination in step S105 as to whether the data item named in the URL received at step S102 is one of the items for which a charge already has been made. As explained at page 10 of the present application, if the requested data item is one of the data item names read out at step S104, the data item is already charged and the charging process (S106) is skipped and the data is again transmitted (S108). If the data name is not the same as any item read out in step S104, it is determined that the data item is has not previously been charged, and the charging process is performed (S106) and data is transmitted (S208). This process avoids the problem of double charging for a repeated request for a data item. It also ensures that when a new transaction occurs, information is stored so that a subsequent request for a data item will not result in double charging.

The second and third embodiments add further features related to the provision of a list of purchased items from the data base to the mobile unit, and the provision of information related to purchased and unpurchased items.

**Feibelman et al**

The Examiner has cited Feibelman for its teaching of a system that permits remotely located customers to provide an order to an order database. As illustrated in Figs. 1 and 2 of the

patent, the system 10 has a customer order interface 20, coupled to a provisioning engine 30, which couples to an interface 40 for a plurality of communication devices 50.

The customer order interface 20 has a plurality of ports 21 that are coupled to customer care systems 12, each of which records service orders by a customer. The customer order can include data representative of a transaction type and an order sequence for performing a transaction (col. 6, lines 42-46). The customer order interface 20 includes one or more of a file, a set of database tables, ports, applications, etc. which form one or more input ports 21 (col. 4, lines 62-66). The interface 20 also includes input scripted provisioning drivers (SPD) 25, each of which retrieves an order from a customer care system 12 by continually polling the customer care system through the selected interface type and stores the orders retrieved in an order database 32 in the provisioning engine 30 (col. 5, lines 8-15).

The provisioning engine 30 contains processor 35 and the order database 32, which stores the orders transferred from customers via an input port 21 and input SPD 25, as illustrated in Fig. 2. The data base 32 may be accessed by a rule based processor 37, which continuously polls the order database for due customer service orders. Each order has an order number, type, data-based sequence and tables, as illustrated in Fig. 3. (Col. 5, lines 8-27). The provisioning engine 30 is coupled to communication devices interface 40, having an output SPD 45 and output ports 42. The SPD 45 is operative to execute a run of a provisioning script, which tells the output SPD which tasks to run or not run, order, request, type, reports and in which order (col. 5, lines 27-48).

The flowchart of Fig. 4 illustrates a process 70 that is executed by the RPD 35. The RPD is continuously polling at 72 to determine at 73 if a transaction or order has been retrieved. If no transaction is retrieved, the order database 32 continues to be queried or polled for the next order. If a transaction is retrieved, then a rule for the transaction or order type is read or selected at 74. Next a determination is made on whether a rule exists for the transaction or order type 75. If no rule exists, then the transaction fails 76 and the order database 32 will continue to be polled. If a rule exists, then a provisioning script based upon a rule is served or transferred at 77 through the

output SPD 45 for execution. Thereby, the output is provided to one or more communication devices 50 necessary to complete the customer order or request.

The Examiner has not articulated with any precision the manner in which the structure and operation of Feibelman et al would anticipate the claimed invention. Applicant presumes that the Examiner would point to order database 30 and the rule based processor 35 in the provisioning engine as corresponding to the data base 20 and server 18 that is disclosed in the present application. The differences, however, would lie in the functions performed by the processor 35 as compared to the server of the present invention, with reference to the flow charts of the present application. More specifically, the difference would lie in the rules that are implemented by the two systems and the data that is stored in the data base.

In the present invention, the data base stores information with respect to completed transactions, particularly user identification information and data items for which a transaction process is completed. The basic rule as specified in claim 1 is that a determination is made as to whether a data provision request is for a data item for which a transaction is completed. If so, the data item is transmitted without performing a transaction process (e.g., charging). If not, the transaction process is performed (e.g., charging) and the data item is transmitted.

In Feibelman et al, there is no express teaching of the particular rules that are followed, especially rules governing requests for data items that already have been processed (charged) and the transmission of data items in response to such requests. In Feibelman, the customer order can be generated by a customer telephone ordering system or other systems such as personal or recorded interface system (col. 6, lines 50-52). Order information can be stored in the order database 32 (col. 5, line 15) and can include information about a pending transaction and even a completed transaction for audit purposes col. 6, line 67-col. 7, line 3). However, the disclosure in Feibelman does not contemplate the problem confronted by the Applicant. In particular, there is no consideration of whether a duplicate order and payment will be made. The system in Feibelman et al is simply concerned with placing and satisfying orders, but is not concerned with double billing. Thus, the solution taught and claimed herein is not contemplated by Feibelman et al.

Amendment under 37 C.F.R. § 1.111  
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In particular, at least three of the functions in claim 1 are not found in Feibelman et al, including the functions of the determining means, data transmission means and data retransmission means. Moreover, such functions would not be obvious, as there is no recognition of the double billing problem that leads to a storage of completed transaction processes by user identifying information and a determination of whether there is a request according to user identifying information for data items for which transaction processing has been completed. For these reasons, claim 1 should be patentable and overcome the prior art. The claims dependent therefrom should also be considered patentable for the same reasons.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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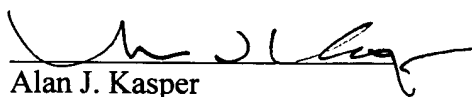
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**23373**

CUSTOMER NUMBER

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